

Subpart J—Commission Review of Adjustment Request Denials

§ 385.1001 Scope (Rule 1001).

(a) *Applicability.* This subpart applies to proceedings of the Commission held in accordance with section 504(b) of the Department of Energy Organization Act, 42 U.S.C. 719(b), to review orders issued by the Secretary of Energy pursuant to section 504(a) of the Department of Energy Organization Act denying, in whole or in part, requests for adjustments.

(b) *Relationship to other rules.* When a provision of this subpart is inconsistent with a provision of any other subpart of this part, the former provision controls.

§ 385.1002 Definitions (Rule 1002).

For purposes of this subpart:

(a) *Commission* includes an officer or employee designated as presiding officer in a proceeding under this subpart.

(b) *Petitioner* means a person who is aggrieved or adversely affected by a contested order, as defined in this section, and who requests a review, pursuant to this subpart, by the Commission of the denial by the Secretary.

(c) *Secretary* means the Secretary of Energy or his delegate.

(d) *Contested order* means the decision or order issued by the Secretary denying, in whole or in part, a request for adjustment.

(e) *Participant* means, as appropriate, the petitioner, the Secretary, or an intervenor.

§ 385.1003 Request for nondisclosure of information (Rule 1003).

(a) For purposes of this section, nondisclosure means nondisclosure except to the participants in the proceedings and under the conditions as provided in paragraph (e) of this section.

(b) If a person filing under this subpart claims that some or all of the information contained in a document is exempt from the mandatory public disclosure requirements of the Freedom of Information Act (5 U.S.C. 552), is information referred to in 18 U.S.C. 1905, or is otherwise exempt by law from public disclosure, the person:

(1) Will request the presiding officer not to disclose such information, ex-

cept to the participants in the proceedings and under the conditions as provided in paragraph (e) of this section, which request the person must serve upon the participants in the proceedings;

(2) Will file, together with the document, a second copy of the document from which has been deleted the information for which the person requests nondisclosure and must indicate in the original document that the original document is confidential or contains confidential information;

(3) If the information is claimed to come within the exception in 5 U.S.C. 552(b)(4), for trade secrets and commercial or financial information, it must include a statement specifying why the information is privileged or confidential;

(4) If the information for which nondisclosure is requested is not within the exception in 5 U.S.C. 552(b)(4), it must include a statement specifying the justification for nondisclosure.

(c) If the person filing a document does not submit a second copy of the document from which the appropriate information has been deleted, the presiding officer may assume that there is no objection to public disclosure of the document in its entirety.

(d) If information is submitted in accordance with paragraph (b) of this section, the information will not be disclosed except as provided in the Freedom of Information Act, in accordance with Part 388 of this subchapter and upon request in accordance with paragraph (e) of this section, to participants in the proceeding under the restrictions that the participants may not use or disclose the information except in the context of the proceeding conducted pursuant to this subpart and that the participants must return all copies of the information at the conclusion of the proceeding to the person who submitted the information under paragraph (b) of this section.

(e) At any time, a participant may request the presiding officer to direct a person submitting information under paragraph (b) of this section to provide that information to the participant requesting the information under this paragraph. The presiding officer will so